



OCA FILE LEG *2/10/89*
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
 WASHINGTON, D.C. 20503

September 28, 1989

LEGISLATIVE REFERRAL MEMORANDUM

OCA 3348-89

TO: LEGISLATIVE LIAISON OFFICER:

<u>AGENCY</u>	<u>CONTACT</u>	<u>PHONE NUMBER</u>
Central Intelligence Agency	E.N. Garrett	482-6122
National Security Council	G.P. Hughes	456-2224
Department of Defense	Sam Brick	697-1305

SUBJECT: REVISED -- Department of Justice amendment to Electronic Communications Privacy Act.

(This supersedes referral on same subject of September 19, 1989.)

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with Circular A-19.

Please provide us with your views no later than

1:00 p.m. -- TODAY -- SEPTEMBER 28, 1989. NO EXTENSIONS.

Direct your questions to me (395-3454).

James J. Jukes
 James J. Jukes for
 Assistant Director for
 Legislative Reference

Enclosures

cc: Bruce McConnell	C.B. Gray
Kevin Scheid	Arnold Intrater
Rich Bacherman	Annette Rooney/Sue Thau
Terry Thiele	

(a) [defines information as "subscriber information" and records as "toll records" or "electronic communication transactional records"]

current law
(b) Required certification.--The Director of the Federal Bureau of Investigation (or an individual within the Federal Bureau of Investigation designated for this purpose by the Director) may request any such information and records if the Director (or the Director's designee) certifies in writing to the wire or electronic communications service provider to which the request is made that--

(1) the information sought is relevant to an authorized foreign counter intelligence investigation; and

(2) there are specific and articulatable facts giving reason to believe that the person or entity to whom the information sought pertains is a foreign power or an agent of a foreign power as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801).

proposed change
Subscriber information regarding a person or entity may also be requested from a wire or electronic communications service provider by the Director of the FBI (or the Director's designee) based upon a certification by the Director (or the Director's designee) that such information is relevant to an authorized foreign counter intelligence investigation and that information available to the FBI indicates there is reason to believe that communications facilities registered in the name of the person or entity ~~[has]~~ have been used, in communication through the services of such a provider, with a foreign power or an agent of a foreign power as defined in this subsection.